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| 09/439,157 | 11/12/1999 | YUKI HIRAYAMA | JA9-98-228 | 1299 |

25259 7590 12/17/2003

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| EXAMINER |
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LU, TOM Y

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| ART UNIT | PAPER NUMBER |
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2621

DATE MAILED: 12/17/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/439,157

Applicant(s)

HIRAYAMA, YUKI

Examiner

Tom Y Lu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09/09/2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The amendment and written response filed on September 09, 2003 has been entered.
2. Claims 1-4 are pending.

Response to Arguments

3. Applicant's arguments filed September 09, 2003 have been fully considered but they are not persuasive.

In response to applicant's arguments, the recitation "in a graphical user interface" and "dynamically generates a template" have not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

The Prendin Reference:

With regard to Claim 2, applicant argues the Prendin reference does not teach or suggest "mean for selecting an image area, from an image, to be a subject of a template". No selected image is stored as a template image in Prendin. In addition, applicant argues Prendin does not teach "means for selecting a point in said image area...". Applicant also argues Prendin does not teach "means for storing said selected point as position correction information associated with said template image". With regard to Claims 1, 3 and 4, applicant argues Prendin fails to provide

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teaching for “means for calculating a final pointing position”. In summary, applicant argues the Prendin reference does not teach all the limitations cited in the claims.

Upon further review of specification, and in light of applicant’s arguments, the examiner respectfully disagrees for the following reasons. First of all, applicant in the specification does not provide any specific definition with regard to “template”. Therefore, the examiner is entitled to give the broadest reasonable interpretation. In Merriam-Webster’s Collegiate Dictionary, tenth edition (a copy is attached), a template is defined as “something that establishes or serves as a pattern”. Prendin in page 5, lines 2-4, teaches “windows drawn from the following frame, or image, contained in the other storage and selected within neighbours close to the reference window”. The “windows” herein are “something serves as patterns”. Therefore, these windows 31-33 as shown in figure 3 are reasonably considered as templates. In addition, each of these windows is drawn from each of the images that are stored in “the other storage”. With regard to “means for selecting a point in said image area”, Prendin in page 9, lines 12-17, teaches “the computer selects these windows inside neighbourhood close to the reference window 29, and large enough as to comprise all of the possible positions due to the *shift* of the reference point during the period of two successive frames or images”, which implies the center points of the windows are compared to see if there is any alignment error. In order to do so, the center points of the template windows such as 31-34 have to be selected or registered beforehand by the computer or manually entered, otherwise, window searching and correlation as shown in figures 3 and 5 cannot be performed. Moreover, Prendin teaches center points of the windows are representative of the positions, which is mentioned in page 9, lines 8-10, for the purpose of correlation. By performing such correlation, it shifts the selected point in window 29 to a new

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position as indicated in page 9, lines 30-31, and the point positions of windows 31-33 have to be considered as the “correction information associated with said template image” because the computer “corrects” the selected point position of window 29, and the center points of windows 31-33 are used as computing parameters. At the end, the “new true position” in page 9, lines 30-31, is the claimed “final pointing position”.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Prendin (GB 2202104A).

- a. As applied to Claim 1, which is representative of Claim 3, Prendin discloses means for comparing an image in the vicinity of a coordinate obtained from a pointing device (Prendin at page 4, lines 30-31, discloses “reference area, or window, in the neighbourhood of said selected point, now displayed by means of a cursor positioned by means of a joystick”. The reference area or window in the neighborhood of the selected point corresponds to the claimed “an image in the vicinity of a coordinate”. “Means of a cursor positioned by means of a joystick” corresponds to the claimed “a pointing device”) with an image of a template (Prendin at page 5, lines 2-5, discloses “compares it to analogous comparative area or windows”, such “comparative area or window” corresponds to the claimed “an image of a template”); means for locating a most matching template and its position on an image (Prendin at page 5, lines 6-10,

discloses “said window is copied to the working storage of a distance-measuring computer, which searches, by comparison, for the most similar window which is present in the corresponding image stored inside one of two storages”. Note “the most similar window” corresponds to the claimed “template”, the center point of windows 29 as shown in figure 3 correspond to the claimed “position on an image”); and from the position on said image and position correction information associated with the template (Prendin at page 5, lines 11-12, discloses “determines the difference between the positions of these two latter windows, from which the value of the sought distance is then easily computed”, the center points of windows 31, 32, 33 correspond to the claimed “position correction information associated with the template”), means for calculating a final pointing position (Prendin at page 9, lines 30-31, discloses “this process enables the new true position to be found very quickly, which the movable reference point has come to during the period of two successive frames or images”, such “new true position” corresponds to the claimed “final pointing position”).

- b. With regard to Claim 4, the only difference between Claim 1 and Claim 4 is Claim 4 calls for a medium which comprises a program. Prendin discloses using computers to implement his system. A computer inherently includes a memory storage which the software program can run on, and such memory storage corresponds to the claimed “medium”.
- c. With regard to Claim 2, Prendin discloses means for selecting an image area, from an image, to be a subject of a template (Prendin at page 5, lines 30-31, discloses “figure 3 shows the comparative areas, or comparative windows”, such

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comparative areas or windows are created same as the reference window. Prendin at page 8, lines 16-17, discloses a small area or window around the point selected by the operator, and shown by a small cross in figure 2, such window corresponds to the claimed "template"); means for storing said image area as a template image (Prendin at page 5, line 4, discloses the comparative areas or windows are stored in other storage); means for selecting a point in said image area with a pointing device (the center points shown in figure 3 for comparative windows 31, 32, 33 are selected by means of a joystick); and means for storing said selected position correction information associated with said template image (Prendin at page 5, line 4, discloses the comparative areas or windows contains the selected points are stored in other storage).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

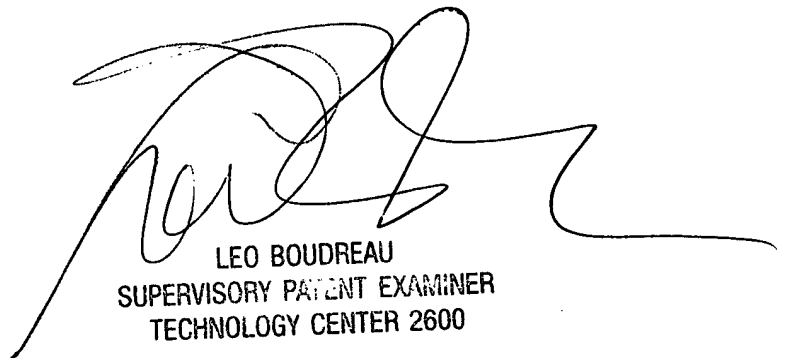
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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tom Y Lu whose telephone number is (703) 306-4057. The examiner can normally be reached on 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo H Boudreau can be reached on (703) 305-4706. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Tom Y. Lu



LEO BOUDREAU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600